MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2021 / 2022 SESSION

UIF2612 – ISLAMIC FAMILY LAW

(All Sections / Groups)

29th APRIL 2022
Reading Time : 9.15 a.m. – 9.30 a.m.
(15 Minutes)
Answering Time: 9.30 a.m. – 12.30 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes only in their question paper. Students then have the remaining **three hours** in which to answer the questions.

2. This question paper consists of 4 pages with 5 questions only.

3. Attempt **ALL** questions in **PART A** which are COMPULSORY and **TWO** questions in **PART B**. The distribution of the marks for each question is given.

4. Students are allowed to bring into the Examination Hall **CLEAN** and **ORIGINAL** copies of Islamic Family Law (Federal Territories) Act 1984 [Act 303] and the Al Qur'an Translation. **Students are not allowed to lend or borrow** these documents **during the Examination.**

5. Write all your answers in the Answer Booklet provided.

PART A (ALL QUESTIONS ARE COMPULSORY TO BE ANSWERED)

QUESTION 1

Adam and Asiah were married for 10 years and were blessed with two kids. They stayed in an elite neighbourhood in Bangsar as Adam was a successful businessman. Recently, Asiah saw changes in Adam's attitude. He started to abuse her physically and emotionally even though she was not at fault. Adam also neglected his family and spent most of his time hanging out at night clubs with his business partners. At the night club, he met a waitress named Suria and fall in love with her. Adam asked for Asiah's consent to contract a polygamous marriage but Asiah refused stating that it was unfair to her as she has not done anything wrong and she was still fit and capable of being a good wife. Determined with their plan, Adam and Suria went to Pattani, Thailand and solemnised their marriage before a *wali hakim* in the absence of Suria's *wali*. The marriage was witnessed by Adam's friends, Badrul who was a habitual alcoholic drinker and Radhi, who was a senile old villager. Upon their return to Malaysia, they found out that Suria was a consanguine sister to Asiah and they have been separated for more than fifteen years after their parents separated.

Based on the facts:

1) Discuss the validity of the marriage between Adam and Suria.

(15 marks)

2) Assuming that Suria and Asiah were not related, and Adam wished to proceed with their plan to marry according to *hukum syarak* in Putrajaya, where Suria resided, explain the possibility of Adam contracting a polygamous marriage.

(10 marks)

(Total 25 Marks)

QUESTION 2

A Muslim woman is discriminated in a marriage as only man is allowed to dissolve the marriage.

Express your opinion on the above statement by explaining the different types of dissolution of marriage as provided under the Islamic Family (Federal Territory) Act, 1984. Your answer must also be supported with relevant authorities.

(Total 25 Marks)

Continued …….

PART B (ANSWER TWO OUT OF THE THREE QUESTIONS)

QUESTION 3

Datuk Ali had arranged the marriage of his daughter, Yaya, 17 years old, to his personal assistant, who was also Yaya's cousin, Hassan. This was to prevent her from eloping with her boyfriend Abu, who was jobless. The marriage was solemnized in Masjid Putrajaya. As Yaya did not consented to the marriage and that she felt that Hassan was not equal to her, a month after the reception she left her matrimonial house and told her father that she will apply for *fasakh*. She also expressed her intention to marry Abu who had become an entrepreneur. Her father was so furious and disowned her.

Meanwhile, Yaya tried to convince Abu to marry her. She told Abu that Hassan had never consummated her, hence she does not need to observe any *iddah* period and they could marry immediately. She also told him that even though her father would not consent to their marriage, she could apply for *wali hakim* on the ground that her father had refused to give consent without reasonable excuse. Abu agreed to marry Yaya but he told Yaya that he could only give Yaya a silver ring worth RM99.99 as her *mahar* as he had a limited budget. He also asked his friends, Alang and Along who worked with a loan shark to act as witnesses for their marriage.

Based on the above, assess the followings:

1) Whether Yaya could apply for *fasakh* and on what ground.

(7 marks)

2) Whether or not Yaya's claim that she does not need to observe *iddah* period is true.

(3 marks)

3) Whether Yaya could proceed with her plan to marry Abu.

(15 marks)

(Total 25 marks)

Continued …….

QUESTION 4

Daud and Dini have been married for three years. During the solemnization of marriage, Daud pronounced: "I do solemnly declare when I leave my wife for four months Hijrah continuously or more voluntarily or with force, and I or my representative do not give her maintenance for such period whereas she is obedient to me or I cause hurt to her person, then she makes a complaint to the Syariah court and if found by the Syariah court to be true, and she gives to the Syariah court which received on my behalf a sum of one ringgit, then she is divorced by a talaq khuli."

Since last year, due to the Covid-19 pandemic, Daud failed to give maintenance to Dini as he lost his earning due to nationwide lockdown. Daud always argued that since Dini was having a good income as an online seller and that Daud had always helped her with her business, she should maintain herself. He also threatened her that if she ever raises the issue of maintenance to him again or tells anyone including her parents, she is divorced with one *talaq.*

Dini was also being physically assaulted and battered by Daud whenever they had arguments, and this caused her to be depressed. After the Movement Control Order (MCO) was lifted by the government, Daud left their matrimonial home stating that he wanted to find a business opportunity in Perlis. However, Daud did not return home for almost one year and Dini was curious of his safety and whereabout as she did everything she could to find Daud but was unsuccessful. As she could no longer bear the pressure alone, Dini told everything to her parents including Daud's failure to provide her with maintenance.

Based on the facts:

1) Assess Dini's right to maintenance and a method for Dini to dissolve her marriage together with its ground(s).

(15 marks)

2) Assuming that they were divorced, and Daud was present at the time when divorce was pronounced by the Syariah Court, predict the ancillary claims that could be applied by Dini.

(10 marks)

(Total 25 Marks)

Continued …….

QUESTION 5

Ahmad was a pilot and his wife Sarah was a fashion model. They have their matrimonial home in Kuala Lumpur. They have been married for 3 years and live happily although without having children. Ahmad had been regularly assigned for international flight and he had seldomly returned home as his flight schedule was tight, in addition to the quarantine rules due to Covid-19 pandemic.

One day, after three months away from home, Ahmad received a news from Dr Erin, his friend who is working as an obstetrics and gynaecology specialist, congratulating him for his wife's two months' pregnancy. Ahmad was very shocked and confused with the news as he had not been sleeping with his wife for more than four months now.

Based on the above:

1) Assess Ahmad's situation, according to *hukum syarak* and the law, if he refuses to admit the paternity of the baby as he suspected that the wife might have engaged in an illicit relationship during his absence.

(15 marks)

2) Assuming that during their marriage, Ahmad had not paid the *mahar* to Sarah and that the deposit for their matrimonial home was paid by Sarah, predict whether Sarah could make any claims against Ahmad.

(10 marks)

(Total 25 marks)

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